IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8395 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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DAHOD URBAN CO-OPERATIVE BANK LTD

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8395 of 1999

MR AJAY R MEHTA for Petitioner No. 1

MR PR ABICHANDANI, AGP, for Respondent No. 1-3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 03/07/2001

ORAL JUDGEMENT

The petitioner, which is a registered Cooperative Society, has challenged the order dated 11-2-1999 passed by the State Government rejecting the revision application of the petitioner against the order dated 4-9-1997 passed by the Additional Registrar (Appeals) Cooperative Societies and confirming the order dated

31-5-1993 passed by the District Registrar of Cooperative Societies whereby the District Registrar had refused to grant approval for renumbering of the Rules from 20 (A) to 21 (A) and 21 to 22 and disapproving Rules 21 A and 22.

2. The petitioner, a Cooperative Bank, was registered as a Cooperative Society under the Bombay Cooperative Societies Act in the year 1936. The Bank had framed election rules for elections to the Board of Directors and Managing Committee. The original Rules were framed as far back in the year 1953. Some amendments were made to the Rules in the year 1972 and, thereafter, in the year 1973, the District Registrar approved the Election Rules of the petitioner - Society which were formulated by a General Body on 3-12-1972. The District Registrar granted approval on 24/25-1-1973. As per the amendment made to the Election Rules in the year 1973, it was provided that where a candidate whose nomination was accepted for elections withdraws his candidature seven days before the date of polling, he would be entitled to a refund of the deposit but it was also provided in the next rule that a candidate could also withdrew the candidature 24 hours before the time of polling subject to the condition that in case of such withdrawal within seven days from the date of polling but before 24 hours of polling time, the candidate would not be entitled to get refund of the deposit. Of course, no withdrawal of candidature was permitted within 24 hours from the time of polling.

3. In the year 1993, the General Body of the petitioner-Bank made certain amendments to the Election Rules which did not provide for any change as far as the aforesaid provisions were concerned but some of the rules including the aforesaid rules were required to be renumbered. While granting approval to the amendment in the Election Rules, the District Registrar disapproved Rule 21 (A) and Rule 22. The rule permitting withdrawal of candidature seven days before the date of polling and refund of deposit which was originally contained in Rule 20 (A) was sought to be renumbered as Rule 21 (A) and the original Rule 21 which permitted withdrawal of candidature before 24 hours from the time of polling but without refund of the deposit was sought to be renumbered as Rule 22. Since the District Registrar disapproved the aforesaid amendment which was more in the nature of renumbering the rules then amendment in the real sense of the term, the petitioner - Bank carried the matter in appeal. Upon failure of the petitioner- Bank in appeal before the Additional Registrar, a revision was filed

before the State Government, which also came to be dismissed. Hence, the present petition.

4. Having heard Mr. Ajay R. Mehta, learned counsel for the petitioner and Mr. P.R. Abichandani, learned AGP for respondents, it appears to the Court that the impugned orders of all the three authorities suffer from the vice of non-application of mind as none of them have considered the fact that the contents of amended Rule 21 (A) and amended Rule 22 were already there in the Election Rules since 1972-73 and that it was only on account of amendment of the other election rules that the aforesaid rules were required to be renumbered. This fact was also highlighted by the petitioner in the reply dated 24-4-1993 submitted to the District Registrar.

5. In view of the above, the impugned orders are required to be set aside and the respondents are directed to grant approval to the amendment of the Election Rules by granting approval to amended Rule 21 (A) and Rule 22 which deal with withdrawal of candidature at the elections. Accordingly, the impugned orders are set aside. Rule is made absolute with costs.

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